

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:)
)
Timothy A. Stewart) Case No. 15-23443-CMB
Gretchen W. Stewart,)
) Chapter 13
Debtors) Docket No.
)
)
Timothy A. Stewart)
Gretchen W. Stewart,)
)
Movants)
)
vs.)
)
Freedom Mortgage Corporation and)
Ronda J. Winnecour, Trustee,)
)
Respondents)

**MOTION TO ENFORCE TRUSTEE'S REPORT OF RECEIPTS AND
DISBURSEMENTS, NOTICE OF FINAL CURE PAYMENT, AND DISCHARGE
ORDER ALONG WITH REQUEST FOR PAYMENT OF LEGAL FEES AND
EXPENSES**

AND NOW, come the Debtors, Timothy A. Stewart and Gretchen W. Stewart, by and through their attorney Christopher M. Frye, and Steidl and Steinberg, Attorneys at Law, and respectfully represent as follows:

1. This case was commenced on September 18, 2015 when the Debtors filed a voluntary petition under Chapter 13 of the Bankruptcy Code.
2. The Debtors successfully completed Chapter 13 Plan dated September 18, 2015, an Order Discharging Debtors was entered on January 21, 2021 at Docket No. 72, and a Final Decree was entered on January 22, 2021 at Docket No. 74.

3. Among the Debtors' creditors is Freedom Mortgage Corporation ("Freedom") who hold a first mortgage on the Debtors' home residence.

4. Freedom Mortgage Corporation took over the mortgage loan after the loan was transferred to them during the bankruptcy case pursuant to Docket No. 49.

5. The Chapter 13 Trustee filed a Notice of Final Cure payment with respect to the Freedom mortgage on October 29, 2020 at Docket No. 64.

6. The Notice of Final Cure payment indicates that the Debtors were to begin post-petition payments directly on or before December 1, 2020.

7. Freedom filed a Response to the Notice of Final Cure indicating that they were in agreement with the Trustee's Notice of Final Cure on November 16, 2020 at Docket No. 65.

8. The Trustee filed a Motion for Approval of Report of Receipts and Disbursements on November 24, 2020 at Docket No. 66.

9. The Trustee's Receipts and Disbursements were approved by Order of this Court dated January 21, 2021 at Docket No. 71.

10. The Debtors received a mortgage statements from Freedom dated February 8, 2021 that indicates that the mortgage is behind by \$1,283.29.

11. Attached and labeled "Exhibit A" please find a copy of the mortgage statement dated February 8, 2021.

12. The Debtors have since received another mortgage statement indicating that they owe \$3,840.59.

13. The Debtors started making direct payments to Freedom on or before December 1, 2020 pursuant to the Trustee's Notice of Final Cure and long-term debt

payment instructions via check dated 11-21-20. They also made timely regular monthly payments via checks dated 12-29-20, and 1-28-21.

14. The Debtors aver that they have made every post-petition required in full and in a timely manner and should not be behind on payment.

15. Attached and labeled "Exhibit B" please find copies of the checks dated 11-21-20, 12-29-20, and 1-28-21.

16. Upon being made aware of the error made by Freedom, Debtors' counsel reached out to counsel of record for Freedom via email in an attempt to resolve the matter. No response was received from Freedom counsel. Multiple weeks later another email was sent to counsel regarding the issue but no response was received.

17. The Debtors have followed all payment instructions from the Court to the letter and Freedom continues to indicate that they are behind on mortgage loan payments.

18. Freedom's continued billing for a delinquency is a violation of the approved Trustee's Report of Receipts and Disbursements, the approved Notice of Final Cure, and the Discharge Order entered in the Chapter 13 case.

19. The Debtors have been forced to bring a motion to reopen the Chapter 13 case and the instant motion to enforce through no fault of their own and should not incur legal fees and/or costs as a result.

20. Freedom should be ordered to correct the Debtors' mortgage loan account to reflect that the Debtors' mortgage loan account is completely current and to correct any post-bankruptcy delinquent reporting on the Debtors' credit reports.

21. Freedom should be ordered to pay legal fees to Debtors' counsel in the amount of \$2,000.00 as well as the court reopening fee of \$235.00.

WHEREFORE, the Debtors, Timothy A. Stewart and Gretchen W. Stewart, respectfully request this Honorable Court to order that Freedom correct the Debtors' mortgage loan account to reflect that the Debtors' mortgage loan account is completely current, to correct any post-bankruptcy delinquent reporting on the Debtors' credit reports, and to pay legal fees to Debtors' counsel in the amount of \$2,000.00 as well as the Court reopening fee of \$235.00.

Respectfully submitted,

April 9, 2021
DATE

/s/ Christopher M. Frye
Christopher M. Frye, Esquire
Attorney for the Debtors

STEIDL & STEINBERG
Suite 2830 – Gulf Tower
707 Grant Street
Pittsburgh, PA 15219
(412) 391-8000
chris.frye@steidl-steinberg.com
PA I. D. No. 208402